

While no traverse is presented, it is respectfully submitted that the Examiner's statement purporting to demonstrate distinctness is unclear and illogical in its terms. Specifically, the Examiner asserts that "the device of Group II can be made by forming the alloy other than the gate". Since an alloy is a material and a transistor gate is a semiconductor structure and thus not comparable, the Examiner's assertion is unclear and ambiguous and, as such, does not logically establish the proposed method, whatever it might be, to be materially different from that of claims 1 - 12 or that it would result in the structure of claims 13 - 20. Accordingly, to avoid possible prejudice to Applicant due to ambiguity of the Examiner's assertion, clarification of the requirement for restriction in the next official action is respectfully requested.

Since all requirements contained in the present official action have been fully answered, early and favorable action on the merits of claims 1 - 12 is respectfully requested.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 09-0458 of International Business Machines Corporation (E. Fishkill).

Respectfully submitted,


Marshall M. Curtis
Reg. No. 33,138

Whitham, Curtis & Christofferson, P. C.
11491 Sunset Hills Road, Suite 340
Reston, Virginia 20190

(703) 787-9400
Customer Number: 30743